

By: Ellis, Shapiro, West

S.B. No. 1061

A BILL TO BE ENTITLED

AN ACT

relating to discrimination related to the business of insurance and to the use of insurance policy proceeds for certain victims of past discrimination; creating an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5, Article 21.21-6, Insurance Code, as added by Chapter 415, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 5. SANCTIONS. (a) Any legal entity engaged in the business of insurance in this state found to be in violation of or failing to comply with this article is subject to the sanctions authorized by Chapter 82 ~~[in Article 1.10]~~ of this code or ~~[including]~~ administrative penalties authorized by Chapter 84 ~~[under Article 1.10E]~~ of this code. The commissioner may also utilize the cease and desist procedures authorized by Chapter 83 ~~[Article 1.10A]~~ of this code.

(b) It is not a defense to an action of the commissioner under Subsection (a) of this section that the contract giving rise to the alleged violation was entered into before the effective date of this article.

SECTION 2. Subchapter B, Chapter 21, Insurance Code, is amended by adding Article 21.21-6A to read as follows:

Art. 21.21-6A. CRIMINAL PENALTY. (a) In this article, "person" means a legal entity engaged in the business of life

1 insurance described in Subdivisions (a), (b), (e), (f), and (j),
2 Section 2, Article 21.21-6 of this code, as added by Chapter 415,
3 Acts of the 74th Legislature, Regular Session, 1995, or an officer
4 or director of one of those entities.

5 (b) A person commits an offense if the person with criminal
6 negligence:

7 (1) offers insurance coverage at a premium based on a
8 rate that is, because of race, color, religion, ethnicity, or
9 national origin, different from another premium rate offered or
10 used by the person for the same coverage, other than for
11 classifications applicable alike to persons of every race, color,
12 religion, ethnicity, or national origin; or

13 (2) collects an insurance premium based on a rate that
14 is, because of race, color, religion, ethnicity, or national
15 origin, different from another premium rate offered or used by the
16 person for the same coverage, other than for classifications
17 applicable alike to persons of every race, color, religion,
18 ethnicity, or national origin.

19 (c) An offense under this article is a state jail felony.

20 SECTION 3. Subsection (c), Section 3, Article 21.21-8,
21 Insurance Code, is amended to read as follows:

22 (c) All actions under this article must be commenced on or
23 before the second anniversary of [~~within 12 months after~~] the date
24 on which the plaintiff was denied insurance or the unfair act
25 occurred or the date the plaintiff, in the exercise of reasonable
26 diligence, should have discovered the occurrence of the unfair act.

27 SECTION 4. Section 1, Article 21.74, Insurance Code, is

1 amended by amending Subdivisions (1) and (2) and adding Subdivision
2 (4) to read as follows:

3 (1) "Holocaust victim" means a person who was killed
4 or injured, or who lost real or personal property or financial
5 assets, as the result of discriminatory laws, policies, or actions
6 directed against any discrete group of which the person was a
7 member, during the period of 1920 to 1945, inclusive, in Germany,
8 areas occupied by Germany, ~~[or]~~ countries allied with Germany, or
9 countries that were sympathizers with Germany.

10 (2) "Insurer" means an insurance company or other
11 entity engaged in the business of insurance or reinsurance in this
12 state. The term includes:

13 (A) a capital stock company, a mutual company, or
14 a Lloyd's plan; and

15 (B) any parent, subsidiary, reinsurer, successor
16 in interest, managing general agent, or affiliated company, at
17 least 50 percent of the stock of which is in common ownership with
18 an insurer engaged in the business of insurance in this state.

19 (4) "Proceeds" means the face value or other payout
20 value of insurance policies and annuities plus reasonable interest
21 to date of payment without diminution for wartime or immediate
22 postwar currency devaluation.

23 SECTION 5. Article 21.74, Insurance Code, is amended by
24 adding Sections 2A and 2B to read as follows:

25 Sec. 2A. FILINGS AND CERTIFICATES OF INSURANCE. (a) This
26 section applies to each insurer engaging in business in the state
27 that, directly or through a related company, sold to persons in

1 Europe insurance policies described by Section 1 of this article or
2 dowry or educational insurance policies that were in effect during
3 the period of 1920 to 1945, whether the sale occurred before or
4 after the insurer and the related company became related.

5 (b) Each insurer shall file or cause to be filed with the
6 commissioner the following information:

7 (1) the number of insurance policies described by
8 Subsection (a) of this section sold by the insurer or a related
9 company;

10 (2) the holder, beneficiary, and current status of the
11 policies; and

12 (3) the city of origin, domicile, or address for each
13 policyholder listed in the policies.

14 (c) Each insurer shall certify:

15 (1) that the proceeds of the policies described by
16 Subsection (a) of this section have been paid to the designated
17 beneficiaries or their heirs in circumstances in which that person
18 or those persons, after diligent search, could be located and
19 identified;

20 (2) that the proceeds of the policies, in
21 circumstances in which the beneficiaries or heirs could not, after
22 diligent search, be located or identified, have been distributed to
23 Holocaust survivors or to qualified charitable nonprofit
24 organizations for the purpose of assisting Holocaust survivors;

25 (3) that a court of law has certified in a legal
26 proceeding resolving the rights of unpaid policyholders and their
27 heirs and beneficiaries a plan for the distribution of the

1 proceeds; or

2 (4) that the proceeds have not been distributed and
3 the amount of those proceeds.

4 (d) The commissioner by rule shall require that insurers
5 update the information submitted to the commissioner under this
6 section at reasonable intervals.

7 Sec. 2B. ESTABLISHMENT AND MAINTENANCE OF REGISTRY; PUBLIC
8 ACCESS. (a) The commissioner shall establish and maintain within
9 the department a central registry containing records and
10 information relating to insurance policies described by Section
11 2A(a) of this article of Holocaust victims, living and deceased.
12 The registry shall be known as the Holocaust Era Insurance
13 Registry.

14 (b) The commissioner by rule shall establish appropriate
15 mechanisms to ensure public access to the registry.

16 (c) Information contained in the registry:

17 (1) is public information;

18 (2) is not subject to any exceptions to disclosure
19 under Chapter 552, Government Code; and

20 (3) cannot be withheld from disclosure under any other
21 law.

22 SECTION 6. (a) Article 21.21-6A, Insurance Code, as added
23 by this Act, applies only to an offense committed on or after the
24 effective date of this Act. An offense committed before the
25 effective date of this Act is governed by the law in effect
26 immediately before the effective date of this Act, and that law is
27 continued in effect for that purpose. For the purposes of this

1 subsection, an offense is committed before the effective date of
2 this Act if any element of the offense occurs before that date.

3 (b) Subsection (c), Section 3, Article 21.21-8, Insurance
4 Code, as amended by this Act, applies to a cause of action for which
5 the limitations period established under that subsection before its
6 amendment by this Act has not expired on the effective date of this
7 Act.

8 SECTION 7. Not later than the 180th day after the effective
9 date of this Act, an insurer subject to Article 21.74, Insurance
10 Code, as amended by this Act, shall file the information and
11 certification required by Section 2A of that article.

12 SECTION 8. This Act takes effect September 1, 2003.